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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

RONALD CHERRY,

Defendant and Appellant.

B262077

(Los Angeles County  
Super. Ct. No. VA136860)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Roger T. Ito, Judge. Affirmed.

Paul Stubb, Jr., under appointment by the Court of Appeal, for Defendant  
and Appellant.

No appearance for Plaintiff and Respondent.

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Following a jury trial, defendant and appellant, Ronald Cherry, was found guilty of possessing methamphetamine (Health & Saf. Code, § 11377). Cherry subsequently admitted the truth of a prior strike conviction (Pen. Code, § 667, subds. (b)-(i)), and he was sentenced to a term of 32 months in prison. We affirm.

### **FACTUAL SUMMARY**

Viewed in accordance with the usual rules of appellate review (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206), the evidence established the following.

On September 12, 2014, South Gate police officer Heriberto Gutierrez detained Cherry on suspicion of trespassing and then discovered that Cherry had an outstanding arrest warrant. After being arrested on the warrant, Cherry was placed into Gutierrez's patrol car,<sup>1</sup> and subsequently transferred to a patrol car operated by Officers Albert Rodriguez and Juan Rodriguez. Juan testified that, as Cherry was sitting in the backseat of the patrol car, he volunteered the information that he had methamphetamine in his right sock. Juan directed Albert to seize the methamphetamine, and watched as Albert removed a small baggie from Cherry's right sock. The parties stipulated the baggie contained .0454 grams of a crystalline substance containing methamphetamine, and that this was a usable quantity of the drug.

As the officers were driving Cherry to the police station, Cherry "asked if he could get some type of break for telling [them] that he had methamphetamine on him." Albert testified he understood Cherry to be asking whether they might release him because he had voluntarily surrendered the drugs. Cherry did not say that someone else had put the methamphetamine into his sock, nor that the methamphetamine did not belong to him.

Cherry did not testify.

Robert West testified for the defense that he knew some of the homeless people who lived under the Firestone Bridge at the Rio Hondo River, including Cherry and a

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<sup>1</sup> The evidence regarding Cherry's initial detention and arrest has been gleaned from the hearing at which the trial court denied his Penal Code section 1538.5 motion to suppress evidence.

woman named Monica. West testified he once saw Monica place an object into Cherry's shoe; the object was "a little cellophane packet, package about this big, and it was white." When West mentioned this to Cherry, Cherry replied, " 'Yeah, I felt something like that in my shoe.' " West also testified that "once in a while" Monica puts things in Cherry's pocket. On cross-examination, West acknowledged that he did not know the date when he saw Monica put something into Cherry's shoe.

After the jury found Cherry guilty of possessing methamphetamine, he admitted a prior strike conviction under the Three Strikes law. The trial court sentenced him to prison on the drug possession charge for the low term of 16 months, which was doubled as a second strike sentence for a total term of 32 months. Cherry filed a timely notice of appeal.

We appointed counsel to represent Cherry on appeal. After reviewing the record, counsel filed an opening brief requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. We directed counsel to send the record on appeal and a copy of the opening brief to Cherry, notifying him that he had 30 days within which to personally submit any contentions or issues he wished us to consider. Cherry did not file a supplemental brief.

### **DISCUSSION**

We have examined the entire record and are satisfied appellate counsel has fully complied with his responsibilities and that no arguable appellate issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 278 [120 S.Ct. 746]; *People v. Wende, supra*, 25 Cal.3d at p. 443.)

**DISPOSITION**

The judgment is affirmed.

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EDMON, P. J.

We concur:

ALDRICH, J.

LAVIN, J.